

**FILED**

**JUL 26 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES RILEY DAY,

Defendant - Appellant.

No. 05-10123

D.C. No. CR-04-00021-5-DWM

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Montana  
Donald W. Molloy, District Judge, Presiding

Submitted July 24, 2006\*\*

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

James Riley Day appeals from his 33-month sentence imposed after pleading guilty to possession of a machine gun and felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(o) and (g)(1) and 924(a)(2). We have jurisdiction to review his sentence, *United States v. Plouffe*, 445 F.3d 1126, 1120-

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

31 (9th Cir.), *cert. denied*, No. 05-10541, 2006 WL 1094342 (U.S. May 22, 2006), and we affirm.

Day contends that his 33-month sentence was unreasonable. We disagree. The record demonstrates that the district court properly considered the advisory Guidelines and weighed each factor set forth in 18 U.S.C. § 3553(a), concluding that a sentence at the low end of the Guidelines was appropriate. The sentence imposed, which is at the bottom of the applicable Guidelines range, is not unreasonable. *See id.* at 1131.

**AFFIRMED.**